

FEB 22 2018 IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

FEB 22 2018

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State of New York, State of California, State of
Connecticut, State of Delaware, State of
Hawaii, State of Illinois, State of Iowa,
Commonwealth of Kentucky, State of Maine,
State of Maryland, Commonwealth of
Massachusetts, State of Minnesota, State of
Mississippi, State of New Jersey, State of New
Mexico, State of North Carolina, State of
Oregon, Commonwealth of Pennsylvania, State
of Rhode Island, State of Vermont,
Commonwealth of Virginia, State of
Washington, and the District of Columbia

Petitioners,

v.

Federal Communications Commission, and
United States of America,

Respondents.

Case No. 18-1055

PETITION FOR REVIEW

Pursuant to Federal Rule of Appellate Procedure 15, Circuit Rule 15,
5 U.S.C. § 706, 47 U.S.C. § 402(a), 28 U.S.C. §§ 2342(1) and 2344, the
States of New York, California, Connecticut, Delaware, Hawaii, Illinois,
Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Mississippi,
New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode
Island, Vermont, Virginia, Washington, and the District of Columbia (State
Petitioners) petition this Court for review of the order of the Federal
Communications Commission (FCC) captioned *Restoring Internet Freedom*,

Declaratory Ruling, Report and Order, and Order, WC Docket No. 17-108, FCC 17-166, 83 Fed. Reg. 7852 (Feb. 22, 2018) (“Order”). A copy of the full text of the Order is attached as Exhibit 1.¹ Venue is proper in this Court pursuant to 28 U.S.C. § 2343.

State Petitioners seek a determination by this Court that the Order is arbitrary, capricious, and an abuse of discretion within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*; violates federal law, including, but not limited to, the Constitution, the Communications Act of 1934, as amended, and FCC regulations promulgated thereunder; conflicts with the notice-and-comment rulemaking requirements of 5 U.S.C. § 553; and is otherwise contrary to law. Accordingly, State Petitioners respectfully request that this Court hold unlawful, vacate, enjoin, and set aside the Order, and that it provide such additional relief as may be appropriate.

State Petitioners are filing this petition within ten days of publication of the summary of this Declaratory Ruling, Report and Order, and Order in the Federal Register, *see* Order ¶ 399, and thus request to be included in the judicial lottery procedure under 28 U.S.C. § 2112(a). *See also* 47 C.F.R. §§ 1.13 and 1.4(b)(1).

¹ On January 16, 2018, State Petitioners and several other parties filed protective petitions for review in this Court. *See* Dkt. No. 18-1011. On February 16, 2018, the petitioners and the FCC filed a joint stipulation to withdraw the protective petitions voluntarily. *See* Doc. No. 1718363.

Dated: February 22, 2018

Respectfully Submitted,

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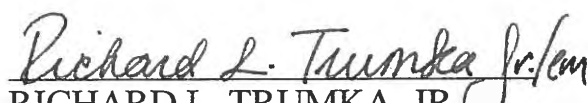
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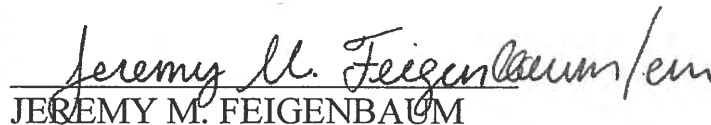
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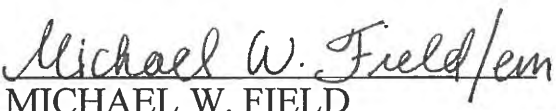
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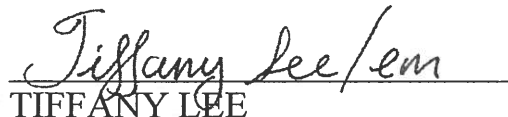
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CERTIFICATE OF SERVICE

I hereby certify that, on February 22, 2018, I caused one copy of the foregoing Petition for Review to be served on the following counsel by the manner indicated:

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EXHIBIT 1